

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Nanci E. Langley; and
Robert G. Taub

Bentonville Post Office
Bentonville, Ohio

Docket No. A2011-58

ORDER AFFIRMING DETERMINATION

(Issued December 22, 2011)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012”¹. The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2011 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* Lastly, the Postal

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On August 30, 2011, Linda Naylor (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Bentonville, Ohio post office (Bentonville post office).²

II. PROCEDURAL HISTORY

On September 1, 2011, the Commission established Docket No. A2011-58 to consider the appeal, designated a Public Representative, and directed the Postal Service to file the Administrative Record and any responsive pleadings.³ On September 9, 2011, the Postal Service filed the Administrative Record with the Commission.⁴

Petitioner filed a participant statement supporting her petition.⁵ She attached six other participant statements opposing the Bentonville post office closing.⁶ The

² Petition for Review received from Linda Naylor regarding the Bentonville, Ohio Post Office 45105, August 30, 2011 (Petition).

³ Order No. 838, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 1, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, September 9, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Bentonville, OH Post Office and Extend Service by Rural Route Service (Final Determination).

⁵ Participant Statement Received from Linda Naylor, October 3, 2011 (L. Naylor Participant Statement).

⁶ Participant Statement Received from Donald Young, October 3, 2011 (Young Participant Statement); Participant Statement Received from Rhonda Bailey, October 3, 2011 (Bailey Participant Statement); Participant Statement Received from Thomas Kirker, October 3, 2011 (Kirker Participant Statement); Participant Statement Received from Vernon Shivley, October 3, 2011 (Shivley Participant Statement); Participant Statement Received from Itha Jarvis, October 3, 2011 (Jarvis Participant Statement); Participant Statement Received from Ruth Pence, October 3, 2011 (Pence Participant Statement).

Commission also received two additional participant statements and one letter supporting the Petition.⁷

On October 24, 2011, the Postal Service filed comments requesting that the Commission affirm its Final Determination.⁸ Petitioner filed a reply brief on November 7, 2011.⁹ On December 12, 2011, the Public Representative also filed reply comments.¹⁰

III. BACKGROUND

The Bentonville post office has provided retail postal services and service to 28 post office box customers. Final Determination at 2. No delivery customers were served through this office. *Id.* The Bentonville post office, an EAS-55 level facility, had retail access hours of 6:30 a.m. to 9:00 a.m. and 1:30 p.m. to 5:00 p.m., Monday through Saturday. *Id.* Lobby access hours were the same as retail access hours. *Id.*

The postmaster position became vacant on July 6, 2010 when the Bentonville postmaster passed away. *Id.* A noncareer officer-in-charge (OIC) was installed to operate the office. *Id.* at 2, 10. Retail transactions averaged four transactions daily (three minutes of retail workload). *Id.* at 2. Office receipts for the last 3 years were \$4,996 in FY 2008; \$4,950 in FY 2009; and \$4,237 in FY 2010. *Id.* There were no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$34,134 annually. *Id.* at 10.

After the closure, retail services will be provided by the Manchester post office located approximately 5 miles away.¹¹ Delivery service will be provided by rural carrier

⁷ Participant Statement Received from Thomas Kirker, October 5, 2011; Participant Statement Received from Brett Spencer, October 14, 2011 (Brett Participant Statement); Letter received from John Naylor regarding the Bentonville, Ohio Post Office 45105, October 19, 2011 (J. Naylor Letter). The participant statement from Thomas Kirker filed on October 5, 2011 is identical to the one filed on October 3, 2011.

⁸ United States Postal Service Comments Regarding Appeal, October 24, 2011 (Postal Service Comments).

⁹ Linda Sue Naylor Reply to Postal Service Comments Regarding Appeal, November 7, 2011 (Petitioner Reply Comments).

¹⁰ Public Representative Comments, December 12, 2011 (PR Comments).

through the Manchester post office. *Id.* The Manchester post office is an EAS-18 level office, with retail hours of 8:30 a.m. to 5:00 p.m., Monday through Friday, and 8:30 a.m. to noon on Saturday. *Id.* One hundred eight-one post office boxes are available. *Id.*

IV. PARTICIPANT PLEADINGS

Petitioner and other participants. Petitioner opposes the closure of the Bentonville post office. She expresses concerns about the effect of the post office closing on the Bentonville community and highlights the historical significance of the former postmaster as the oldest postmaster and Postal Service employee in history. Petition at 2; L. Naylor Participant Statement at 2, 6. She raises issues about the effect the closing will have on postal services, such as the safety and security of sending and receiving mail.¹² She also questions the projected cost of rural route service and the impact of the closing on employees. Participant Statement at 2-3, 8-9; Petitioner Reply Comments at 3.

Other participants raise similar issues as Petitioner about the historical significance of the post office and the effect of the closing on the provision of postal services.¹³ Participant Pence alleges that he did not receive a copy of the Administrative Record when he requested it from the Postal Service. Pence Participant Statement.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Bentonville post office. Postal Service Comments at 14. The Postal Service believes the appeal raises two main issues: (1) the effect on postal services, and (2) the impact on the Bentonville community. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and

¹¹ *Id.* at 2. MapQuest estimates the driving distance between the Bentonville and Manchester post offices to be approximately 4.9 miles (7 minutes driving time).

¹² Petition at 1-2; L. Naylor Participant Statement at 7-8; Petitioner Reply Comments at 2.

¹³ See Young Participant Statement; Bailey Participant Statement; Kirker Participant Statement; Shivley Participant Statement; Jarvis Participant Statement; Spencer Participant Statement; J. Naylor Letter.

concludes that the determination to discontinue the Bentonville post office should be affirmed. *Id.* at 1-2.

The Postal Service explains that its decision to close the Bentonville post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and declining office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little projected growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Bentonville community when the Final Determination is implemented. *Id.* at 4-5. It asserts that it has addressed each of the concerns raised by Petitioner and that it has satisfied the requirements of 39 U.S.C. § 404(d). *Id.* at 5-13.

Reply Comments. In her reply comments, Petitioner reiterates her concerns about the effect the post office closing will have on the community, postal services, and employees. Petitioner Reply Comments at 2-3. She asserts that the Postal Service failed to consider these concerns when evaluating the Bentonville post office closing. *Id.* at 5.

The Public Representative states that the Postal Service appears to have followed proper procedures when closing the Bentonville post office. PR Comments at 1. However, he contends that the Postal Service failed to demonstrate that Bentonville customers will receive effective and regular service from a rural route carrier. *Id.* Specifically, he argues that the Postal Service did not adequately respond to customer concerns about leaving money in rural route boxes. *Id.* at 2.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. *Id.* § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On February 4, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Bentonville post office. Final Determination at 2. A total of 60 questionnaires were distributed and 29 were returned. *Id.* On February 17, 2011, the Postal Service held a community

meeting at the Bentonville Burning Heart Camp to address customer concerns. *Id.*; Administrative Record, Item 24. Thirty-six customers attended. *Id.*

The Postal Service posted the proposal to close the Bentonville post office with an invitation for comments at the Bentonville and Manchester post offices for approximately 60 days, from March 21, 2011 through May 22, 2011. Final Determination at 2. The Final Determination was posted at the same two post offices for approximately 30 days, from August 3, 2011 through September 4, 2011. Administrative Record, Items 48-50.¹⁴

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Bentonville, Ohio is an unincorporated community located in Adams County, Ohio. Administrative Record, Item No. 16. The community is administered politically by Adams County. *Id.* Police protection is provided by Adams County. *Id.* Fire protection is provided by Manchester. *Id.* The community is composed of farmers, retirees, the self-employed, and those who work in local businesses or commute to work in nearby communities. *Id.*; Final Determination at 8. The questionnaires completed by Bentonville customers indicate that, in general,

¹⁴ Administrative Record, Items 48-50. The Administrative Record contains a Final Determination cover sheet with a round-date stamp listing the date of posting (August 3, 2011), but not the date of removal at the Bentonville post office. *Id.*, Item 49. The Administrative record does not include any round date stamp cover sheets for the Manchester post office. In future cases, to demonstrate compliance with applicable notice requirements, the Postal Service must include round-date stamps on all Proposals to Close and Final Determinations for each post office that lists both the date of posting and the date of removal.

residents travel elsewhere for other supplies and services. Postal Service Comments at 9-10 (citing Administrative Record, Item No. 22).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Bentonville community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Bentonville post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 8-10.

Petitioner and other participants assert that the Postal Service failed to fully consider the effect of the post office closing on the community. They express concerns about the loss of community identity and emphasize the historical value of the post office as having the oldest postmaster and Postal Service employee in U.S. history.¹⁵

In response, the Postal Service states generally that a community's identity derives from the interest and vitality of its residents and their use of its name. Postal Service Comments at 10. The Postal Service asserts that it is helping to preserve the community identity by continuing to use the Bentonville name in addresses. *Id.* However, it contends that it is necessary for the ZIP code to change. *Id.* at 10 n.11.

With respect to concerns about the historical significance of the Bentonville post office, the Postal Service argues that the historical accomplishments of the former postmaster will always remain a part of the Bentonville community's identity. *Id.* at 11. It notes that the Postal Service served the Bentonville community from other locations that are also part of the history of the community, but are no longer there or are used for other activities. *Id.* It contends that the proposed change to postal services in the Bentonville community will be "another stage in the history of how the Postal Service serves the residents of Bentonville." *Id.*

¹⁵ Petition at 2; L. Naylor Participant Statement at 2, 6; Young Participant Statement; Bailey Participant Statement; Kirker Participant Statement; J. Naylor Letter.

The Postal Service has satisfied the requirement that it consider the effect of the closing on the community. 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Bentonville postmaster passed away on July 6, 2010 and that a non-career OIC has operated the Bentonville post office since then. Final Determination at 2, 10. It asserts that after the Final Determination is implemented, the non-career OIC may be separated and that no other Postal Service employee will be adversely affected. *Id.* at 10.

Petitioner argues that the Postal Service failed to fully consider the effect of the post office closing on employees. L. Naylor Participant Statement at 8-9; Reply Comments at 3. The Postal Service responded to this concern by stating that the OIC is a noncareer employee who was hired with the understanding that the position would be temporary. Final Determination at 4, Concern No. 15. It notes that the postmaster position is vacant and that there is no guarantee that any replacement postmaster would be from the community. *Id.* at 9, Concern No. 6.

The Postal Service has satisfied its obligation to consider the effect of the closing on employees at the Bentonville post office. 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. Petitioner and other participants argue that the alternative service proposed by the Postal Service fails to satisfy the requirement that the Postal Service provide a maximum degree of regular and effective postal services. They contend that the Postal Service ignored customer concerns regarding theft and security issues that may arise from leaving mail, money, and other items in the mailbox.¹⁶ She and other participants assert that rural route service will not be as convenient or efficient as the service provided by the Bentonville post office, which enables customers to send and receive mail the same day.¹⁷

¹⁶ Petition at 2; L. Naylor Participant Statement at 7-8; Shivley Participant Statement; Spencer Participant Statement.

¹⁷ Petition at 2; Jarvis Participant Statement; Spencer Participant Statement; Reply Comments at 2.

The Public Representative also argues that the Postal Service failed to demonstrate that Bentonville post office patrons will receive effective and regular service from a rural route carrier. PR Comments at 1. He contends that the Administrative Record contains conflicting or inaccurate statements from the Postal Service about leaving money in rural route boxes. *Id.* at 2.

The Postal Service responds to concerns about theft and security issues by stating that Postal Inspection Service records indicate that there has not been any report of mail theft or vandalism in the area. Postal Service Comments at 8. It asserts that it advised customers that they may place a lock on their mailboxes or install a sturdier mailbox to make it resistant to vandalism. *Id.*

The Postal Service argues that it considered the efficiency and timeliness of rural route service. *Id.* at 6. It states that although carriers strive to provide service at approximately the same time daily, mail volumes and weather conditions often affect delivery times. *Id.* at 7. It notes that customers are not required to erect rural mailboxes and may instead receive their mail via Post Office Box Service from the Manchester post office. *Id.* at 8.

The Postal Service has considered its ability to provide a maximum degree of effective and regular service. 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$34,134. Final Determination at 10. It derives this figure by summing the following costs: postmaster salary and benefits (\$34,155) and annual lease costs (\$1,500) minus the cost of replacement service (\$1,521). *Id.*

Petitioner questions the accuracy of the projected savings and the cost of rural route service. Participant Statement at 2-3. The Postal Service asserts that rural route carrier service would cost substantially less than maintaining the Bentonville post office and would still provide regular and effective service. Postal Service Comments at 12. It contends that its cost estimates are supported by record evidence in accordance with its statutory obligations. *Id.* at 13.

The Postal Service has satisfied the requirement that it consider economic savings. 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

Based on the review of the record, the Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Bentonville post office is affirmed.

It is ordered:

The Postal Service's determination to close the Bentonville, Ohio post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

I dissent in this case.

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

It is not the statutory responsibility of the Postal Regulatory Commission to correct the record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

Questions have been raised as to the adequacy of rural route services: in particular, whether such services are an adequate substitute for a post office. The record contains conflicting information about whether customers can or should place currency in their mail boxes for a carrier to pick up in exchange for postal services. This should also be clarified by the Postal Service prior to any final decision to close the Bentonville Post Office.

Moreover, the Postal Service recently announced a moratorium on post office closings.

It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process but had not yet received a discontinuance notice by December 12, 2011 have the respite of a five month moratorium.

The citizens of Bentonville, Ohio and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF COMMISSIONER LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since July 2010, not an EAS-55 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings, that the effects on the community are adequately considered.

I find that the Postal Service's decision to discontinue operations at the Bentonville post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley